

IN THE INCOME TAX APPELLATE TRIBUNAL
MUMBAI BENCH "A", MUMBAI
**BEFORE SHRI NARENDER KUMAR CHOUDHARY, JUDICIAL MEMBER AND
SHRI GAGAN GOYAL, ACCOUNTANT MEMBER**

ITA No. 800/Mum/2024 (A.Y.2022-23)

Anjuman E Qabrastan Dharavi,

Aqsa marketing Unit No. 22,

East India Goat & Tannery

Com Shelwadi, Dharavi,

Mumbai-400 076

PAN No. AAATA 4198 F

.... Appellant

Vs.

CIT (Exem.)

Cumbala Hill,

Mumbai – 400 026

.... Respondent

Appellant by	:	Shri Mohammed Shahab Akram Khan, Ld. AR
Respondent by	:	Shri Prasoon Kabra, Ld. DR
Date of hearing	:	25/07/2024
Date of pronouncement	:	02/09/2024

ORDER

PER GAGAN GOYAL, A.M:

This appeal by assessee is directed against the order of Ld. CIT (Exemptions), Mumbai dated 15.12.2022 passed u/s. 250 of the Income Tax Act, 1961 (in short 'the Act') for A.Y. 2022-23. The assessee has raised the following grounds of appeal: -

1. *The Hon'ble Commissioner of Income Tax (Exemptions), Mumbai, seriously erred in law and on the facts and in the circumstances of the case, in:*

(A) Rejection of Grant of Registration U/s. 12AB of the Income Tax Act, 1961 (herein referred to as "The Act") for Alleged Non-compliance of Proceedings u/s. 12A (1) (ac) (ii) of the Act.

Direction may be issued for approval and restore the grant of Registration U/s. 12AB of the Act.

Your Appellant craves leave, to add to, vary, amend, modify or alter the aforesaid grounds and/ or adduce further evidence, before or at the time of hearing.

2. The brief facts of the case are that the assessee trust is a religious trust registered vide no. INS/6690 U/s. 12A/12AA of the Act dated: 15.07.1978 (Copy attached herewith in paper book), duly approved by the then Ld. Commissioner of Income Tax, Mumbai. In this trust there is a provision for providing free food, shelter and shroud to the lower strata of the society. The assessee trust is registered under the Bombay Public Trusts Act, 1950 also vide no. 241/16 dated: 28.07.2016 (Copy attached herewith in paper book). The assessee trust got the application u/s. 12A (1) (ac) (ii) of the Act provisionally approved for the A.Y.s 2023-24 to 2025-26 vide order dated: 24.06.2022.

3. Thereafter the assessee trust filed form no. 10AB vide dated: 17.06.2022 before the Ld. CIT (Exem.), Mumbai for final registration u/s. 12AB of the Act. On this application filed by the assessee, the Ld. CIT (Exem.) issued two notices of hearing vide dated: 16.11.2022 (Due date of response was 02.12.2022) and 06.12.2022 (Due date of response was 09.12.2022) respectively. The Ld. CIT

(Exem.) found certain clarifications/documents missing in the application filed by the assessee trust mentioned (supra). It was also observed by the Ld. CIT(Exem.) that the assessee has not responded on the hearing notices mentioned (supra) and ultimately, application filed by the assessee trust was rejected and provisional registration granted u/s. 12AB of the Act is also get cancelled vide order dated: 15.12.2022.

4. The assessee being aggrieved with this order of the Ld. CIT (Exem.) preferred the present appeal before us. It is pertinent to mention here that the assessee trust filed the present appeal on 22.02.2024, **hence time barred by 374 days**. We have gone through the order of provisional registration, application of the assessee for final registration filed vide dated: 17.06.2022 and order of the Ld. CIT (Exem.) rejecting the same vide his order dated: 15.12.2022. Before disposing the appeal of the assessee on merits, it is incumbent upon us to deal with the issue of delay in filing of appeal by the assessee, which is more than one year, i.e. 374 days.

5. We have gone through the various documents before us filed through paper book and affidavit of the assessee along with application for condonation of the delay. To decide upon the issue of condonation we have referred and relied upon the certificate issued by the Nursing home looking after the treatment of the main trustee, who is entrusted with the task of accounting and legal

compliances of the trust reproduced as under:



Mob: 9867150728
022-24076828

(10)

NAGREE NURSING HOME & DIAGNOSTIC CENTRE
The Highest Quality Healthcare

Date: 12th February 2024

TO WHOM SO EVER IT MAY CONCERN

This is to certify that "Mr. Mohammad Shakeel Atallah" aged 67 years male is suffering from left Hip sided pain, pain radiate from left hip to left knee, popping sound, sensation of left knee giving our when put weight on it and difficulty in walking since 1.5 years and underwent treatment under honorary consultant Orthopediac .

He had surgery of Left Hip Bipolar Hemiarthroplasty in 2013 with Bilateral Osteoarthritis Knee and no any other comorbidities.

He has been further advised for bed rest at home and follow up Orthopediac.

Dr. Salim Shaikh

Administrator
Nagree Nursing Home

DR. SALIM SALIM
B.U.M.S, PGDEMS (PUNE)
(Reg NO-I47331D)

FOR ANJUMAN E QABRASTAN

Hon. President. Hon. Secretary. Hon. Treasurer

Medicine | Surgery | Orthopedics | Diabetology | ENT | Maternity | Nephrology | Gastroenterology | Urology | Pathology
11 Nagree Apartments, Shaffi Compound, Next to Jama Masjid, Dharavi Main Road Mumbai 400 017.

www.nagreenursinghome.com

6. In addition to the above it is observed that the trustee concerned may not be very conversant with the latest technological up gradations in the Income Tax Department's working etc. We have gone through the paper book filed by the assessee and observed all the documents as required by the Ld. CIT (Exem.) are readily available with the assessee and there is no reason why the assessee will not submit the same with the office of the Ld. CIT (Exem.). Overall conduct of the assessee also confirms its bonafide and it can be assumed reasonably that whatever has happened is because of trustee's ill health, age factor and acquaintance of digital process. **Considering these facts, we deem it fit to condone the delay in filing of this appeal before us.**

7. As far as the issues on merits of the case are concerned, we restore the matter back to the file of the Ld. CIT (Exem.) for reconsideration of the whole issue on merits after giving a proper opportunity of being heard to the assessee. The assessee trust is directed to be vigilant enough in terms of attending the hearing notices issued by the office of the Ld. CIT (Exem.) without fail and without seeking any adjournment in the matter under consideration.

8. In the net result, the appeal filed by the assessee is allowed for statistical purposes.

Order pronounced in the open court on 2nd day of September 2024.

Sd/-

(NARENDER KUMAR CHOUDHRY)
JUDICIAL MEMBER

Mumbai, दिनांक/Dated: 02/09/2024

Dhananjay, Sr. PS

Sd/-

(GAGAN GOYAL)
ACCOUNTANT MEMBER

Copy of the Order forwarded to:

1. अपीलार्थी/The Appellant ,
2. प्रतिवादी/ The Respondent.
3. आयकर आयुक्त CIT
4. विभागीय प्रतिनिधि, आय.अपी.अधि., मुंबई/DR, ITAT, Mumbai
5. गार्ड फाइल/Guard file.

//True Copy//

BY ORDER,

(Asstt. Registrar)
ITAT, Mumbai